



IP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Confirmation No.: 9948

SPIKES

Atty. Ref.: SCS-1208-70

Serial No. 10/509,083

TC/A.U.: 3682

Filed: September 28, 2004

Examiner: L. Footland

For: BEARING

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August 10, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST TO WITHDRAW HOLDING OF ABANDONMENT

Applicant has received a document entitled "Notice of Abandonment" mailed August 6, 2007 in the above-identified application. A telephone interview with the author of the document, Thomas R. Hannon, on August 8, 2007 confirmed the following.

The original non-final Official Action by Lenard Footland in this application was mailed August 28, 2006.

On December 15, 2006, Applicant filed a responsive Amendment, along with a one-month extension of time petition and petition fee.

Examiner Footland delayed until March 26, 2007, the forwarding of his allegation that the previous response was not fully responsive.

The cover sheet of the notice of non-responsive amendment states that a shortened statutory period of response of "30 days" is set from the March 26, 2007 mailing date of the notice.

On April 25, 2007, i.e., within 30 days, Applicant prepared and filed a fully responsive amendment.

There has been no notice from the April 25 date to the present date arguing or suggesting that the amendment was not fully responsive.

In addition to agreement with respect to the basic facts above, Examiner Hannon indicated that a request to withdraw the Notice of Abandonment would appear to be appropriate.

Although not discussed in the telephone interview with Examiner Hannon, it is also noted that Applicant's April 25, 2007 amendment made of record an interview conducted with Examiner Footland on April 23, 2007 (there appears to be no U.S. Patent Office Interview Summary of this interview). During the interview, Applicant discussed with the Examiner amendments to the specification which appear to obviate the need for any additional drawing corrections. The Examiner was either unable or unwilling to provide any indication as to whether he believed the amendments were sufficient to meet his previous drawing objections.

Applicant made those amendments in good faith and in the intervening four months has received no indication that the amendments made in the April 25, 2007 amendment were anything less than fully compliant with the original Official Action as well as the notice of nonresponsive amendment.

Finally, it is noted that Examiner Footland's practice of delaying his notice of informal application until more than six months after the original Official Action mailing date of August 28, 2006, guarantees that, if there were an inadvertent failure to fully respond, Applicant cannot possibly obtain an extension of time (beyond the statutory 6 month period for response), even though the Examiner suggests an extension may be needed in the notice of notice of incomplete amendment (see the penultimate paragraph).

Applicant questions the Patent Office's and/or the Group's policy which permits an examiner to delay the forwarding of a notice of incomplete amendment until after the expiration of the six-month statutory period, thereby rendering it impossible for an applicant to comply within the statutory time period for a response to an Official Action.

The normal Patent Office procedure is that applicant is given 30 days or one month to respond to any notice of incomplete amendment, and according to Examiner Hannon, it appears that the Patent Office automatically indicated a 30-day response period in the cover sheet, notwithstanding Examiner's Footland's statement in the penultimate paragraph.

In view of the above and in view of the fact that Examiner Hannon confirmed the Patent Office receipt of the April 25, 2007 Supplemental Amendment, there is no basis for abandonment of the present application and consideration on the merits is respectfully requested.

Having responded to all objections noted in the outstanding official communication, this application is in condition for allowance and notice to that effect is respectfully requested. In the event the Examiner is of the opinion that a brief telephone

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or personal interview will facilitate allowance of the claims, he is respectfully requested to contact Applicant's undersigned representative.

Respectfully submitted,

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